IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.9.2007

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.830 of 2007

Ramesh .. Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary
Prohibition and Excise Department
Fort St.George, Chennai-9.

2. The District Magistrate
and District Collector
Villupuram District
Villupuram. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue Habeas Corpus as stated therein.

For Petitioner : Mr.S.Govindarajan
For Respondents : Mr.P.Kumaresan
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The second respondent herein clamped an order of detention as against the detenu, as the said authority arrived at the subjective satisfaction that the said detenu is a Goonda and he has to be detained under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Officers, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Challenging the abovesaid detention, the petitioner himself has come forward with the present Habeas Corpus Petition seeking a writ of habeas corpus to direct the respondents herein to produce him, now

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confined in Central Prison, Cuddalore, before this Court, to set him at liberty forthwith from detention and to call for the records pertaining to the passing of the order of detention by the second respondent in detention order No.C2/12927/2007, dated 25.3.2007 and to quash the same.

3. The order of detention dated 23.5.2007 came to be passed based on the ground case said to have taken place on 2.2.2007, when, on information, the Sub Inspector attached to Kallakurichi Police Station and two constables went to Emaper and were watching the movements of the detenu in order to arrest him in connection with Cr.No.45/1997, at 4.00 p.m. they found the detenu near a petty shop and when the police party attempted to catch hold of him, he picked up soda bottles from the petty shop and hurled at the police party. The bottle fell on the highway and busted. The people present there ran helter skelter. The traffic flow came to a stand still. When the Sub Inspector attempted to apprehend him, the detenu took a knife from his hip and stabbed on his chest and on right forearm. On seeing this shop owners downed the shutters. Public peace and public order were disrupted. The Sub Inspector arrested the detenu and a case was registered in Crime No.59 of 2007 on the file of Kallakurichi Police Station for the offences punishable under Section 307, 332 and 427 of IPC.

4. The second respondent, taking note of the above case as a ground case and finding that there are three adverse cases pending against the detenu, having satisfied that there is a compelling necessity to detain him in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as a Goonda.

5. Heard Mr.S.Govindarajan, learned counsel for the petitioner and Mr.P.Kumaresan, learned Additional Public Prosecutor for the respondents. We have perused the materials available on record.

6. In the grounds of detention, in paragraph (3) it is stated as under:

> "3. .... Ramesh was produced before the Kallakurichi Judicial Magistrate on 3.2.2007 along with the seized properties and remand report. The Judicial Magistrate, Kallakurichi has ordered to remand the accused for judicial custody till 16.2.2007 and he was lodged in the Central Prison, Cuddalore. Further his remand was extended on 16.2.2007 upto 2.3.2007 and on 2.3.2007 upto 16.3.2007 and again on 16.3.2007 upto 30.3.2007 by the Judicial Magistrate, Kallurichi."

7. Whereas, a perusal of the records, reveals that there was no valid remand extension. It is only stated that on 16.2.2007, the accused was not produced, to be produced on 2.3.2007. Again on 2.3.2007, it is stated that the accused was not produced, to be produced on 16.3.2007. Even on

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16.3.2007, it is stated that the accused was not produced, to be produced on 30.3.2007. Therefore, there are no valid remand extension orders for the above said periods, nor the same were placed before the detaining authority for his consideration. The order of detention is therefore vitiated. This petition must succeed and the same is ordered as prayed for. The detention order dated 25.3.2007 is set aside. The detenu is directed to be set at liberty forthwith unless his custody is required in connection with any other case.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

sasi

To:

1. The Secretary to Government
   Prohibition and Excise Department
   Fort St.George, Chennai - 9.

2. The District Magistrate
   and District Collector
   Villupuram District
   Villupuram.

3. The Superintendent,
   Central Prison, Cuddalore.

4. The Public Prosecutor
   High Court, Madras.

5. The Joint Secretary to Government, Public [Law and Order]
   Fort St. George, Chennai 9.

1 cc To Mr.S.Govindarajan, Advocate, SR.59267.

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GGK(CO)
RVL 04.10.2007

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